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Rovi Solutions Corporation

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 ROVI SOLUTIONS CORPORATION,

11 Plaintiff,

12 vs.

13 UNILOC (SINGAPORE) PRIVATE LIMITED,

14 UNILOC LUXEMBOURG S.A.,

15 Defendants.

CV 11 4216
CASE NO.

COMPLAINT;
DEMAND FOR JURY TRIAL

16
17
18 Plaintiff Rovi Solutions Corporation ("Rovi") brings this action against Defendants Uniloc
19 (Singapore) Private Limited ("Uniloc Singapore") and Uniloc Luxembourg S.A. ("Uniloc
20 Luxembourg") (collectively, the "Uniloc Defendants") and complains as follows:

21 **THE NATURE OF THE ACTION**

22 1. This is a diversity action for breach of contract and for a declaratory judgment
23 establishing Rovi's contractual rights under California law. The contract at issue is a settlement
24 agreement that Uniloc Singapore and Rovi (previously named Macrovision Corporation) signed in
25 May 2008 (the "Settlement Agreement") to end two California federal patent cases between them.
26 The Settlement Agreement contained a broad release, pursuant to which Uniloc Singapore agreed
27 to release from any and all liability, including claims for damages, not just Rovi, but any of its
28 successors, assigns, and predecessors, as well as any entity that "may acquire or have acquired

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1 rights, title, or interest in and to [Rovi's] products that were accused of infringing, *or that could*
 2 *have been accused of infringing* one or more patents that were the subjects of the lawsuits."
 3 (Emphasis added.) In short, the release did not just apply to Rovi's past acts, but also to past and
 4 future conduct of past or future purchasers, customers or users of any Rovi product that "could
 5 have been" accused of infringement in the prior litigation. Despite this release, Uniloc Singapore
 6 has filed patent infringement lawsuits against Rovi customers and others that obtained an interest
 7 in the precise products that were the subject of the release. Uniloc Singapore has breached the
 8 terms of the release provisions of the Settlement Agreement. Rovi seeks damages and declaratory
 9 and injunctive relief against Uniloc Singapore and its corporate successor, Uniloc Luxembourg.

10 2. Rovi brings this action to recover damages caused by Uniloc's breach, to obtain a
 11 declaratory judgment establishing its contractual rights under the Settlement Agreement, and to
 12 enjoin Uniloc Singapore and Uniloc Luxembourg from pursuing any lawsuits against entities
 13 covered by the release provisions of the Settlement Agreement.

14 **THE PARTIES**

15 3. Plaintiff Rovi Solutions Corporation is a corporation incorporated in Delaware and
 16 with its principal place of business at 2830 De La Cruz Boulevard, Santa Clara, California, 95050.

17 4. On information and belief, Defendant Uniloc (Singapore) Private Limited is a
 18 limited liability company existing under the laws of Singapore.

19 5. On information and belief, Defendant Uniloc Luxembourg S.A. is a corporation
 20 existing under the laws of Luxembourg.

21 **JURISDICTION AND VENUE**

22 6. This Court has diversity jurisdiction under the provisions of 28 U.S.C. §1332.
 23 Rovi is a citizen of the State of California, Uniloc Singapore is a citizen of Singapore, and Uniloc
 24 Luxembourg is a citizen of Luxembourg. The amount in controversy exceeds \$75,000, exclusive
 25 of interest and costs.

26 7. This Court has personal jurisdiction over Uniloc Singapore and Uniloc
 27 Luxembourg because of their significant contacts here. Uniloc Singapore has purposefully
 28 availed itself of the jurisdiction of California federal courts by suing Rovi in federal court in

1 California, entering into the Settlement Agreement in California, agreeing that the Settlement
 2 Agreement should be decided under California law, and suing additional parties that, as explained
 3 below, are beneficiaries to that Settlement Agreement. Since Uniloc Luxembourg is the corporate
 4 successor to Uniloc Singapore, Uniloc Singapore's contacts with California are imputed to Uniloc
 5 Luxembourg.

6 8. Venue is proper in this District under the provisions of 28 U.S.C. §§ 1391(a) and
 7 (d).

8 GENERAL ALLEGATIONS

9 9. Plaintiff Rovi is a global leader in digital entertainment technology including
 10 guidance technology, entertainment data, video production tools, video delivery platforms, content
 11 protection, content networking and advertising technologies, and media playback solutions. With
 12 more than 2,100 employees worldwide, Rovi has offices around the globe and customers including
 13 dozens of the world's largest electronics manufacturers and entertainment companies, such as
 14 Sony, Motorola, Samsung, AOL, Yahoo.com, Verizon, Time Warner Cable, and others. Rovi
 15 owns more than 5,100 globally issued or pending patents to its technology.

16 10. On information and belief, the defendant Uniloc entities are an affiliated group of
 17 offshore shell companies. Defendant Uniloc Singapore was, until January 26, 2011, the
 18 Singapore-based owner of United States Patent No. 5,490,216 (the "'216 patent"). Uniloc
 19 Singapore has admitted, in other litigation, that it is a shell company, with no employees, no
 20 officers, and no facilities. *See Uniloc USA, Inc., et al. v. Nat'l Instruments Corp., et. al.*, Case No.
 21 6:10-cv-00472-LED, Dkt. No. 115-2 (E.D. Tex., Mar. 28, 2011). On information and belief,
 22 Uniloc Singapore's only asset, until January 26, 2011, was the '216 patent. On that date Uniloc
 23 Singapore transferred all of its rights to the '216 patent to another offshore entity, Uniloc
 24 Luxembourg, which has one or more of the same directors as Uniloc Singapore. In fact, the same
 25 person—Bradley C. Davis—signed the '216 patent assignment document on behalf of both Uniloc
 26 Luxembourg and Uniloc Singapore. Uniloc Singapore, which now has no assets, is dissolving
 27 and merging in its entirety into Uniloc Luxembourg.

1 11. Before assigning the patent to Uniloc Luxembourg, Uniloc Singapore sued dozens
2 of technology companies in United States federal court, alleging infringement of the '216 patent.
3 On February 25, 2008, Uniloc Singapore sued Rovi in the Central District of California, alleging
4 infringement of the '216 patent.

5 12. On March 13, 2008, Rovi sued Uniloc Singapore in the Northern District of
6 California, alleging infringement of five Rovi patents.

7 13. In late March 2008, the parties began to negotiate a settlement that would cover
8 both disputes. On May 12, 2008, the parties executed the Settlement Agreement. The
9 Settlement Agreement, which the parties executed in California, was effective as of April 28, 2008.
10 The Settlement Agreement terminated the patent infringement lawsuits that Rovi and Uniloc
11 Singapore had asserted against each other and "dispose[d] of all claims that were asserted or might
12 have been asserted in the Lawsuits or relating to the matters raised therein."

13 14. The Settlement Agreement included a sweeping release provision. That release
14 provision was intended specifically to cover third parties, including past, current and/or future
15 Rovi customers; Flexco Holding Company, Inc. (later renamed Flexera Software, Inc.) and its
16 affiliates (collectively, "Flexera"), which, at the time of the Settlement Agreement's negotiation,
17 were about to purchase certain Rovi assets; and Flexera customers that also obtained any interest
18 (by purchase, license or otherwise) in the Rovi or Flexera products.

19 15. The release language in the Settlement Agreement reflects the parties' intent that
20 Flexera, and Flexera's past and future customers, would be covered by the Settlement Agreement
21 and would be exonerated from any liability for alleged infringement of the '216 patent. The
22 Settlement Agreement provided that:

- 23 a. each party as of April 28, 2008, "releases and forever discharges the other
24 Party, *its predecessors, successors*, parents, subsidiaries, officers, directors, agents,
25 employees, assigns, investors, and attorneys."
26 b. those entities were released from "all claims, demands, liabilities, causes of
27 action, damages, legal fees, costs, expenses, and claims for compensation of
28 whatever nature or description, arising out of or relating to the lawsuits."

1 c. included were “any unasserted claims or causes of action which could have
2 been asserted in the lawsuits.”

3 d. the release “*specifically extends to third parties who may acquire or have*
4 *acquired* rights, title, or interest in and to the Parties’ products that were accused of
5 infringing or that could have been accused of infringing one or more patents that
6 were the subject of the lawsuits.” (Emphasis added.)

7 The settlement also included a provision choosing California law to resolve all disputes.

8 16. Rovi has performed all of its obligations under and satisfied all conditions of the
9 Settlement Agreement. Uniloc Singapore, however, in spite of and in violation of the Settlement
10 Agreement, in 2010 sued entities covered by the terms of the release provision of the Settlement.
11 See, e.g., *Uniloc USA, Inc., et al. v. Foxit Corp., et al.*, No. 6:10-cv-00691 (E.D. Tex.) (filed June
12 8, 2010); *Uniloc USA, Inc., et al. v. Nat'l Instruments Corp., et al.*, No. 6:10-cv-00472 (E.D. Tex.)
13 (filed September 14, 2010); *Uniloc USA, Inc., et al. v. BMC Software, Inc., et al.*, No. 6:10-cv-
14 00636 (E.D. Tex.) (filed December 1, 2010). The defendants in those lawsuits include former
15 Rovi customers and customers of Flexera that acquired rights, title or interest in products that were
16 or could have been accused in Uniloc Singapore’s lawsuit against Rovi. Nonetheless, Uniloc
17 Singapore has sued those Flexera customers for infringing the ‘216 patent based on the use of
18 products that were or could have been accused in Uniloc’s lawsuit against Rovi. Uniloc
19 Singapore has threatened to file additional lawsuits against additional former Rovi customers and
20 Flexera customers alleging infringement of the '216 patent.

21 17. Not only Flexera, but also Rovi's and Flexera’s respective or joint customers are the
22 intended third party beneficiaries of the Settlement Agreement and its release provisions. By
23 suing Rovi's and Flexera’s customers in violation of the release provisions of the Settlement
24 Agreement, Uniloc Singapore has breached the Settlement Agreement.

25 18. Although Rovi has informed Uniloc Singapore that its lawsuits against Flexera’s
26 customers violate the terms of the Settlement Agreement, Uniloc Singapore has refused to move to
27 voluntarily dismiss those lawsuits. Uniloc Singapore initially acknowledged to Rovi that the
28 Settlement Agreement barred suit against former Rovi and Flexera customers for infringing the

1 '216 patent based on the use of products that were or could have been accused in Uniloc
 2 Singapore's lawsuit against Rovi. In July 2011, however, Uniloc Singapore reversed positions,
 3 stating that the Settlement Agreement does not preclude Uniloc Singapore from bringing or
 4 maintaining any lawsuit against former Rovi customers or Flexera customers.

5 19. Uniloc Singapore's breach of the Settlement Agreement has caused and continues
 6 to cause harm to Rovi. Under license or other agreements with various Rovi customers, Rovi's
 7 customers have tendered the defense of these suits by Uniloc Singapore and requested indemnity
 8 from Rovi and/or Flexera. In turn, Flexera, which also claims that Rovi has certain contractual
 9 defense and indemnity obligations with respect to the filed Uniloc Singapore suits, has tendered
 10 the defense of these suits to Rovi.

11 20. Rovi therefore is exposed to substantial indemnity and cost-of-defense liability
 12 because of Uniloc's wrongful pursuit of lawsuits against third-party beneficiaries to the Settlement
 13 Agreement, and has already incurred substantial defense and indemnity obligations, vastly
 14 exceeding \$75,000 in value.

15 21. The events described above have caused Rovi to suffer harm to its goodwill and
 16 business reputation as a result of Uniloc Singapore's wrongful lawsuits against its former and
 17 Flexera's current customers. Unless Uniloc Singapore's lawsuits against these entities are
 18 enjoined, Rovi will suffer irreparable harm.

19 **FIRST CLAIM FOR RELIEF**

20 **(Declaratory Judgment of Breach of Contract Under California Law)**

21 22. Rovi realleges and incorporates by reference paragraphs 1 through 21, inclusive, as
 22 though fully set forth in this paragraph.

23 23. There is an actual controversy, within the meaning of 28 U.S.C. § 2201, between
 24 Rovi and the Uniloc Defendants concerning the scope of the Settlement. In particular, Rovi and
 25 the Uniloc Defendants dispute whether the Settlement Agreement precludes the Uniloc
 26 Defendants from bringing or maintaining any lawsuit against former Rovi customers or Flexera
 27 customers, and whether Flexera, Flexera's customers, and all former Rovi customers are the
 28 intended beneficiaries of the Settlement Agreement. Uniloc Singapore's lawsuits against former

1 Rovi customers and Flexera customers have exposed Rovi to substantial indemnity and cost-of-
2 defense liability.

3 24. Rovi is entitled to a declaratory judgment that Flexera, Flexera's customers, and all
4 former Rovi customers are the intended beneficiaries of the Settlement Agreement; that under the
5 terms of the Settlement Agreement, the Uniloc Defendants are barred from bringing or
6 maintaining any lawsuit against any such beneficiaries for infringing the '216 patent based on
7 products that were or could have been accused in Uniloc Singapore's lawsuit against Rovi; and
8 that Uniloc Singapore therefore breached its obligations under the terms of the Settlement
9 Agreement by bringing lawsuits against Flexera customers and former Rovi customers.

10 **SECOND CLAIM FOR RELIEF**

11 **(Injunctive Relief and Damages for Breach of Contract Under California Law)**

12 25. Rovi realleges and incorporates by reference paragraphs 1 through 21, inclusive, as
13 though fully set forth in this paragraph.

14 26. The Settlement Agreement constitutes a valid contract between Rovi and Uniloc
15 Singapore under California law.

16 27. Uniloc Luxembourg, as Uniloc Singapore's corporate successor, is bound by the
17 Settlement Agreement.

18 28. Rovi has performed all of its obligations under and satisfied all conditions of the
19 Settlement Agreement.

20 29. As described in the forgoing paragraphs, Uniloc Singapore breached the Settlement
21 Agreement.

22 30. Uniloc Singapore's breach of the Settlement Agreement has caused and continues
23 to cause harm to Rovi.

24 31. Uniloc Singapore's breach of the Settlement Agreement, unless enjoined by this
25 Court, will continue to directly and proximately cause Rovi to sustain irreparable damage, loss,
26 and injury.

27 32. Rovi has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Rovi prays for relief as follows:

A. For a declaratory judgment that (1) Flexera, Flexera's customers, and all former Rovi customers are the intended beneficiaries of the Settlement Agreement; (2) that under the terms of the Settlement Agreement, the Uniloc Defendants are barred from suing any such beneficiaries for any matter released under the Settlement agreement, including for infringing the '216 patent based on products that were or could have been accused in Uniloc Singapore's lawsuit against Rovi; and (3) that Uniloc Singapore therefore breached its obligations under the terms of the Settlement Agreement;

B. For an order awarding Rovi its damages, including lost profits, loss of reputation and goodwill;

C. For an order awarding Rovi pre-judgment interest on all such damages; and

D. For orders temporarily restraining, preliminarily and permanently enjoining the Uniloc Defendants and their agents, officers, employees, representatives, successors, and assigns from bringing suit against, and from further pursuing any pending lawsuits against any intended beneficiaries of the Settlement Agreement for infringing the '216 patent based on products that were or could have been accused in Uniloc Singapore's lawsuit against Rovi, such beneficiaries including Flexera, Flexera's customers, and all former Rovi customers;

E. For such other relief as this Court deems just and proper.

DATED: August 25, 2011

QUINN EMANUEL URQUHART &
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By



Claude M. Stern
Attorneys for Plaintiff
Rovi Solutions Corporation

DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Plaintiff Rovi Corporation demands a trial by jury on all issues triable by jury.

DATED: August 25, 2011

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By



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